No. 74-1410

JUN 25 1975

In the Supreme Court of the United States

OCTOBER TERM, 1974

KENNETH ROBERTS, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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The petition for a writ of certiorari was not timely filed. The judgment of the Court of Appeals for the Tenth Circuit in this civil suit was entered on January 14, 1975 (Pet. App. C). The 90-day period provided by 28 U.S.C. 2101(c) for petitioning in civil cases expired on April 14, 1975. The time for filing a petition for a writ of certiorari was not extended, and the petition was not filed until May 9, 1975.

The time limit specified by 28 U.S.C. 2101(c) is jurisdictional, *Toledo Scale Co.* v. *Computing Scale Co.*, 261 U.S. 399, 418; accordingly, the petition for a writ of certiorari should be denied.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

JUNE 1975.